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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/360,422

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JAY S. WALKER

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02/13/2002

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EXAMINER

ZURITA, JAMES H

ART UNIT

PAPER NUMBER

2165

DATE MAILED: 02/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

116

Office Action Summary

Application No.

09/360,422

Applicant(s)

WALKER ET AL.

Examiner

James Zurita

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Application filed 23 July 1999.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-118 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-118 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character Fig. 1A "**134**" has been used to designate display device, a data storage device and an output device, as per page 11, line 25 and page 12, line 2.

Fig. 1C shows item **140** as three separate retailer devices. Disclosure, page 13, line 30 defines retailer devices **140A**, **140B** and **140C**.

Fig. 2A shows product identifier 202 as **202A-202H**, as per page 15, line 9. Fig. 2A also defines data records **210A-217A**, as per page 15, lines 7-8. This is inconsistent with Figs. 2B-2E, which do not otherwise have separate item numbers on both the left hand side and right hand side of the figures. It is unclear whether this is an error, or whether Fig. 2A is meant to be very different from related figures 2B-2E.

For purposes of this examination, Examiner will interpret drawings and disclosures to include corrections.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

Page 11, line 25 refers to "storage device **134**". Page 12, line 2, refers to "output device **134**".

Page 15, lines 8-9 describe product identifiers 202A-H. Fig. 2A shows product identifiers as P100-P122.

Page 19, lines 4 and 7 show product tables 122A-122D. These should include **122A-122E**.

Page 20, line 8, "customer database **123**" should be changed to "customer database **128**".

Page 21, lines 17, shows **108** as a point-of-sale terminal. However, Fig. 1A also shows item **108** as a clock.

Page 23, line 11 should be changed from "customer database **123**" to "customer database **128**".

Page 25, line 14 should be changed from "same elements 502, 506 and 506 as web-page . . ." to "same elements 502, 506 and 508 as web page . . ."

Page 26, line 11, "output device **134**" should be changed to identify the correct item number for output device (see correction for Fig. 1A, above).

Page 29, line 1, "method **600**" should be changed to "method **700**".

For purposes of this examination, Examiner will apply the above corrections.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 9, 11, 13, 15, 17, 19, 22, 28, 30, 33, 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims provide for the use of computer-readable media for performing the methods of parent claims 1, 8, 10, 12, 14, 16, 18, 21, 27, 29, 32 and 34. Since the claims do not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-118 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al. (U.S. Patent 6,138,105).

As per claims 1, 47, 73, 74 and 108, Walker et al. disclose methods and systems for determination, assembly, presentation, redemption and obtaining possession of a package of products comprising the steps of:

detecting that a primary product is of interest to a customer, the primary product having an associated primary product identifier (Col. 4, line 51; Col. 4, lines 58-62; Col. 5, lines 46-49);

sending and interpreting data received via the communications port from a customer device as indicating an expression of interest by a customer in a primary product (Col. 4, lines 58-62; Col. 5, lines 46-49; Col. 8, line 50 –Col. 9, line 21).

access the database to determine a package to be offered to the customer, the package comprising the primary product and at least one secondary product, the primary product and the at least one secondary product each having a corresponding retail price (Col. 4, line 63-Col. 5, line 39; Fig. 5, Package Assembly Rules database, Col. 6, lines 35-62; Fig. 6, Package Offer database, Col. 6, line 63-Col. 7, line 14);

in response to detecting that the primary product is of interest to the customer, determining a package to be offered to the customer, the package comprising -the primary product and at least one secondary product, the primary product and the at least one secondary product each having a corresponding retail price (Col. 5, lines 5-39; Inventory Database, Fig. 4 and Col. 6, line 21-34).

receive from the central server a package offer for purchase of a package at a package price, the package comprising the primary product and at least one secondary product (Col. 9, lines 44-46);

presenting a package offer for the sale of the package at the package price to the customer by displaying the package offer on a display device (Col. 8, lines 33-Col. 9, line 20, describes a reiterative redemption process which permits customers to accept and reject offerings of packages);

providing a customer response comprising an account identifier and an indication of an acceptance of the package offer, the acceptance of the package offer authorizing a charge to a financial account identified by the account identifier for the amount of the package offer price; in response to communicating the code to the central server, receiving from the central server an indication that a package price was charged to a financial account maintained by the customer and a plurality of package product identifiers price; and authorizing the customer to remove the primary product and the at least one secondary product from the retail establishment price (Col. 9, lines 44-46, which state that purchases take place according to ordinary and customary procedures. Point of Sale/POS terminal systems use personal computers or specialized terminals that are combined with cash registers, optical scanners for reading product tags and magnetic stripe readers for reading credit cards. POS payments may include cash, checks and cards -- coupons, credit, debit, stored value cards. POS terminals process payment through centralized clearing-houses using customer financial account information for payment. Ordinary and customary procedures include picking up products at local retailers, or having the products shipped by UPS, US Mail, FEDEX, by a first or second or any number of retailers. Ordinary and customary procedures may

also include having customers pick up different products, at various retailers rather than having the plurality of retailers ship the product to a customer).

As per claims 2-7, 50-53, 75-79, 111-113, Walker et al. disclose methods and systems for detecting that the primary product is of interest to the customer comprises detecting that information relating to the primary product is displayed on a web-page viewed by the customer for a pre-determined amount of time (Col. 4, line 51; Col. 4, lines 58-62 for Internet and Human/Computer Interfaces; Col. 5, lines 46-49), via an electronic shopping cart (Col. 5, line 48; Col. 8, line 50 – Col. 9, line 21; Col. 4, lines 17-24 for "product family", which refers to a classification of goods or merchandise, may include a keyword such as *beverages*, "Product *identifiers*" refers to an identifier corresponding to a product that may be used to determine information regarding that product; Col. 2, lines 58-63 describe a system that identifies complementary products and verifies acceptable sales performance of the complementary products).

As per claims 8-17, 80-84 Walker et al. disclose the methods and systems for determining the package to be offered to the customer comprises: accessing a database to locate a pre-determined package associated with the primary product identifier, selecting at least one secondary product (Col. 2, lines 8-44; Col. 4, line 63-Col. 5, line 39; Fig. 5, Package Assembly Rules database, Col. 6, lines 35-62; Fig. 6, Package Offer database, Col. 6, lines 63-Col. 7, line 14; Inventory Database, Fig. 4 and Col. 6, line 21-34; Col. 10, lines 56-65 describing the use of profit levels and margins, sales performance data includes product profitability, product turnover, product cost or any other combinations thereof, including combination with demand rate and inventory

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levels; Col. 5, lines 5-39, and Col. 6, line 21-34 for Inventory Database, Fig. 4; Col. 6, line 35-63 for Fig. 5 and Package Assembly Rules database; Col. 6, line 63 – Col. 7, line 14, describing related and complementary products, Fig. 6 Package Offer Database).

As per claims 18-26, 48-49, 85-88, 109-110, Walker et al. disclose methods and systems for determining the package price comprises determining a discounted price for each of the at least one secondary product; and summing the retail price of the primary product and the discounted price for the at least one secondary product to calculate the package price (Col. 2, lines 8-56; Col. 3, lines 1-9; Col. 4, lines 14-16; Col. 4, lines 34-39; Col. 5, line 58 – Col. 6, line 5; Col. 6, lines 45-56; Col. 9, lines 31-35; Col. 10, lines 56-65, describing the use of profit levels and margins, sales performance data includes product profitability, product turnover, product cost or any other combinations thereof, including combination with demand rate and inventory levels; Col. 8, line 33-Col. 9, line 20, wherein is described a reiterative redemption process which permits customers to accept and reject offerings of packages, and where the system is designed to permit customers to take advantage of package offers; Col. 9, lines 44-46, where it is stated that purchases process for a customer is transacted in accordance with ordinary and customary procedures. See POS discussion, above).

As per claims 27-40, 64-66, 89-101, Walker et al. disclose methods and systems wherein a first package offer for sale of a first package at a first package price is presented to the customer; and wherein a second package offer for sale of a second package at a second package price is presented to the customer (See description of

POS devices, above, for reiterative presentation of packaged offers, customer response, including acceptance and rejections. Price of different packages vary according to products, and may include incentives related to product quantities, product prices, valid date ranges. Other input and output display devices available at retail establishments or on the Internet. Described in Fig. 3., related text, Col. 4, lines 33-62; Col.5, line 40 –Col. 6, line 19, Col. 7, lines 22-34; Col. 8, line 33-Col. 9, line 20).

As per claims 41-43, 54 and 102-104, Walker et al. disclose methods and systems for receiving from a point of sale terminal a customer response indicating an account identifier and an acceptance of the package offer; and in response to the customer response, authorizing the point of sale terminal to charge a financial account identified by the account identifier for the amount of the package price (see POS and related customary procedures, above).

As per claims 44-46, 67-70, 105-107 and 115-118, Walker et al. disclose methods and systems wherein the primary product is sold by a first retailer (Col. 4, lines 33- Col. 5, line 4, describing Internet use, Wide Area Networks, System 100 may include any number of POS terminals, and may include wireless connections, radio based communications, telephony-based communications, and other network-based communications such as wide area networks distributed via open architectures such as by the Internet, communicating with POS terminals. Once a clearing-house authorizes payment, different retailers may allow customers to pick up merchandise at places that are geographically close to customers).

As per claims 55-57, 71-72 and 114, Walker et al. disclose methods and systems for receiving a code from the retailer; and upon visiting the retail establishment(s), presenting the code to the retailer(s), whereby the retailer(s) may use the code to verify that the financial account has been charged in the amount of the package price (see POS customary procedures, above).

As per claims 58-63, Walker et al. disclose methods and systems wherein the primary product has an associated primary product identifier; wherein indicating an interest in the primary product comprises inputting the primary product identifier into a customer service device at a retail establishment; wherein being presented with the package offer comprises receiving the package offer from the customer service device; and wherein providing the customer response comprises presenting the account identifier, the primary product and the at least one secondary product, and the indication of the acceptance of the package offer at a point of sale terminal (Fig. 7A, Col. 7, line 36 – Col. 9, line 20, describing a reiterative process that permits customers to identify products at a POS terminal, and the system searches through a database to compose a new package offer with prices. See also Redemption process which permits customers to accept package offers and to purchase products as a package).

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Zurita whose telephone number is 703-605-4966. The examiner can normally be reached on 8:30 am to 5:00 pm, M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-395-3900.

JZ
James Zurita
Patent Examiner
Group Art Unit 2165
February 6, 2002


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